

# EXHIBIT A

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15 *ATTORNEYS FOR PLAINTIFFS*

16 **UNITED STATES DISTRICT COURT**  
17 **CENTRAL DISTRICT OF CALIFORNIA**

18 THE NEXT VIETNAM PROJECTS  
19 FOUNDATION, INC., RADIX  
20 CORPORATION A/K/A VIETNAM  
21 VETERANS FOR FACTUAL  
22 HISTORY, SAIGON  
23 BROADCASTING TELEVISION  
24 NETWORK, INC., MY VAN  
25 INTERNATIONAL, INC., NAM  
26 PHAM, CARINA OANH HOANG,  
27 DIEP PHAN, TRONG PHAN, SON  
28 NGUYEN, THANH-MAI NGUYEN,  
AND MINH NGUYEN

*Plaintiffs,*

v.

KOSTER FILMS, LLC, FREDERICK  
KOSTER, BT PRODUCTIONS LLC,  
and BRIAN TOOKER

*Defendants.*

C.A. No. \_\_\_\_\_

**DECLARATION OF NAM PHAM**

**JURY TRIAL DEMANDED**

**DECLARATION OF NAM PHAM**

I, Nam Pham, respectfully represents the following:

1. My name is Nam Phan. I am a Massachusetts resident, who resides and works in Massachusetts. I am the President of the Next Vietnam Project Foundation (the “Vietnam Foundation”), the non-profit organization that owns the film entitled “Through Our Eyes” (the “Film”). I am over the age of eighteen, have personal knowledge of the facts set forth herein except where stated otherwise and, if called as a witness in this matter, I could and would testify competently thereto. I submit this declaration in support of Plaintiffs’ Complaint against Defendants Koster Films, LLC, Frederick Koster, BT Productions LLC and Brian Tooker.

2. As explained more fully below, this declaration sets forth, based on my personal knowledge, how Mr. Koster was paid hundreds of thousands of dollars as a director for the Film with contributions mostly from small donors, how Mr. Koster represented that the Vietnam Foundation would own the Film on behalf of the Vietnamese Community, and how the Vietnam Foundation asked Ms. M. Nguyen to write cease and desist emails to Mr. Koster after he held the Film hostage and sought to sell it for his own benefit.<sup>1</sup>

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<sup>1</sup> Mr. Koster sued Ms. Minh Nguyen personally for defamation based on her efforts to stop his, and the other Defendants’, wrongdoing. In that lawsuit I submitted a declaration stating, among other things, that the Vietnam Foundation had hired Mr. Koster to work on the Film. Of course, the Vietnam Foundation was not technically formed until December 2019. It would therefore be more precise to say that the producers of the Film – VVFH and SBTN – hired Mr. Koster and raised

1           3. I worked as Assistant Secretary for Business Development and  
2 International Trade for the Commonwealth of Massachusetts. Between January 8,  
3 2015 and February 15, 2020, I was prohibited to be involved in any profit-making  
4 enterprises or project by Massachusetts' Conflict of Interests Laws. I was permitted  
5 to be involved with charitable or educational activities.  
6  
7

8           4. In October 2018, Dr. TN Nguyen of the Immigrant Resettlement &  
9 Cultural Center ("IRCC"), a California non-profit dedicated to preserving the history  
10 of Vietnamese refugees, recruited me to be the lead person for a documentary project  
11 on the Vietnam War from the perspectives of South Vietnam. Because I had  
12 previously known IRRC as a reputable charitable organization, and Dr. Nguyen as a  
13 dedicated researcher on Vietnamese American issues, I agreed to help.  
14  
15

16           5. For 40 years, I have studied the War and taught a college level course  
17 titled "Vietnam War from the South Vietnamese Perspectives" at Tuft University in  
18 Medford, Massachusetts. I personally grew up with the War and witnessed the  
19 unfolding of the end of the War in 1975. I have been active in the Vietnamese  
20 American community; thus, I have developed numerous relationships with  
21 Vietnamese civic, religious, military, and political leaders throughout the US as well  
22 as Vietnamese people in Europe and Australia  
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26 \_\_\_\_\_  
27 funds for the benefit of the Vietnam Foundation which, by agreement between the  
28 producers, on the one hand, and Mr. Koster, on the other hand, would be the owner  
of the Film and all related material, and all rights thereto.



1           6. In January 2018, after having had many telephone conferences with  
2 persons who started the project, including Dr. TN Nguyen of the IRRC, Messrs.  
3 James McLeroy and Steve Sherman of Vietnam Veteran for Factual History  
4 (“VVFH”), a Texas non-profit, and Mr. Truc Ho of the Saigon Broadcasting &  
5 Television Network (“SBTN”), a California entity (collectively, the “Producers”),  
6 we hired Mr. Fred Koster to act as a director. He is known to the Vietnamese  
7 community through his work on a movie called “Ride the Thunder” based on the  
8 book authored by Mr. Richard Botkin with the same title.  
9

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12           7. In January 2018, Mr. Koster agreed that he would be a part of our  
13 documentary project as a hired director. His agreement was memorialized in an email  
14 wherein he thanked the producers and me for considering him in this role and that he  
15 was “excited to be part of this project.” Attached hereto as Exhibit 1 is a true and  
16 correct copy of Mr. Koster’s January 15, 2018 Email.  
17

18  
19           8. The Producers and Mr. Koster agreed that the documentaries would be  
20 released free of charge to the public, including DVD copies. The explicit mission of  
21 the whole project is not for anyone’s personal profit; it is for educational purposes.  
22

23           9. As part of setting forth a proper fundraising mechanism, VVFH would  
24 act as a fiscal agent while a new non-profit entity, which would be named the Next  
25 Vietnam Project Foundation (the “Vietnam Foundation”), would be established to  
26 formally own any and all copyright interests of the documentary, interviews, and all  
27

1 related materials. All donations would be tax deductible, as stated publicly during all  
2 television, radio, and newspaper interviews, and individual fundraisers.  
3

4 10. In December 2019, the Vietnam Foundation received official  
5 designation as an educational non-profit organization under the IRS 501(c)(3) rule.  
6 Attached hereto as Exhibit 2 is a true and correct copy of Vietnam Foundation's  
7 official designation.  
8

9 11. I have been the President of the Vietnam Foundation since our official  
10 designation.  
11

12 12. In January 2018, Mr. Koster agreed that for \$80,000 he would make two  
13 videos, each 45-60 minutes, one from the perspective of South Vietnamese, and one  
14 from the perspective of American Vietnam Veterans. In addition, Mr. Koster would  
15 also produce teaching materials to accompany the videos. He would create and  
16 maintain a website called "Through Our Eyes" to use exclusively for the project. The  
17 website would be uploaded with all the interviews of Vietnamese and Vietnam  
18 Veterans who will be interviewed for the documentaries.  
19  
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21 13. The website, which Mr. Koster was hired to create and subsequently  
22 deleted, stated that the mission of the "'Through My Eyes –The Vietnam War' project  
23 [is to] provide[] all produced videos, products and materials FREE of charge to  
24 academic institutes and also to the public." Attached hereto as Exhibit 3 is a true and  
25 correct copy of the Film website, <http://usavn.org/donate.html>.  
26  
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1           14. Mr. Koster pledged to present a script of the documentaries for us, the  
2 Producers, for approval. However, he never did so. The Producers and I subsequently  
3 had to write our own script for the documentary and interviews.  
4

5           15. Among other things we, as the Producers, would use our own resources  
6 to raise money to pay Mr. Koster as well as to connect potential interviewees and  
7 provide the script, factual history for the documentaries, actual footage, and music to  
8 make, in Mr. Koster's words "Not just a great film, but to make a difference".  
9

10           16. In numerous telephone conference calls and in private in person  
11 conversations with certain interviewees including me, Mr. Koster pledged that he  
12 would not put into the Film or keep in the Film anything that is not approved by the  
13 us or the interviewees. He also vowed to keep working on the Film until our  
14 satisfaction.  
15

16           17. Mr. Koster promised to finish the first documentary and teaching  
17 materials by June 2018. When that timeframe had passed, Mr. Koster then promised  
18 that the Film would be ready for the 2019 school year, but as always, he overpromises  
19 and under delivers. Mr. Koster continuously made promises that he failed to uphold  
20 and failed to meet all deadlines.  
21

22           18. Mr. Koster told the Producers that he had good relationship with some  
23 affluent Vietnam veterans in Texas and other places that he could ask them to donate  
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1 money to fund the documentaries. When asked days later, he said that none of his  
2 contacts would give any money.  
3

4 19. In March 2018, we set up a GoFundMe campaign to ask for donations,  
5 and SBTN, a Vietnamese nation-wide cable TV network, began to promote the  
6 project nationwide free-of-charge.  
7

8 20. On March 16, 2018, SBTN taped a 60-minute show, interviewing  
9 Messer. Koster, McLeroy and me. On this TV show, Mr. Koster again stated as a  
10 director for hire for this documentary, that the entire production, interviews, and all  
11 related materials would belong to the Vietnamese community and it would be  
12 distributed free-of-charge to the public and schools across the US once completed.  
13 Much of the negotiations of Mr. Koster's role as a hired director took place in  
14 California during this time.  
15

16 21. Mr. Koster subsequently appeared two additional times in California on  
17 SBTN to tape interviews for the promotion of the Film. These dates include at least  
18 October 28, 2018 and March 16, 2019.  
19

20 22. On March 20, 2018, Mr. Koster acknowledged in an email to me and a  
21 number of producers that he does not have authority to dictate the content or script  
22 of the film. In fact, Mr. Koster stated that "The script for the South Vietnamese video  
23 will first be written by SBTN 'based' on our approved outline that we currently have  
24 which [Dr. TN Nguyen] will provide to SBTN. This script by SBTN will then be  
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1 sent to IRCC for their input and then sent to Jim and I. One thing we need to be  
2 careful of is, that everyone needs to know that this script is a collaborative  
3 effort. Sometimes when it comes to creative writing, people may be sensitive to  
4 changes in the final version of the script.” Attached hereto as Exhibit 4 is a true and  
5 correct copy of Mr. Koster’s March 20, 2018 Email.  
6

7  
8 23. From March to October 2018, I made numerous phone calls to my  
9 contacts to make appointments for interviews of prominent Vietnamese individuals  
10 for our documentaries so that Mr. Koster could film them. I also traveled twice to  
11 Orange County of California to connect Mr. Koster to interviewees and interpreted  
12 for the interviewees. I prepared the questions, which were specific to each  
13 interviewee’s background and experience. I also functioned as the questioner. Mr.  
14 Koster’s role was to work with Mr. Tooker to film the interviews. I did all of this  
15 with and solely because of the understanding that the Film would be owned by the  
16 Vietnamese community, not Mr. Koster.  
17  
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19

20 24. In October 2018, I connected Mr. Koster to Ms. Vu Thanh Thuy, a  
21 renowned Vietnamese journalist and executive owner of Saigon-Houston Radio, who  
22 has been living in Houston, with more than 200,000 Vietnamese strong community.  
23 When Mr. Koster met her, she expressed that, because of the Vietnamese  
24 community’s strong support for a film project to tell the Republic of Vietnam’s story,  
25 she could help to raise any needed fund.  
26  
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25. Mr. Koster then proposed to change the video project to a feature documentary film for a total of \$250,000, which included a 10% contingency fee, and promised that it would be completed by June 2019. In this proposal, Mr. Koster represented that he would be the hired director for this feature documentary film and that all rights to the film, interviews, and all related materials would belong to the Vietnamese Community through the non-profit, the Vietnam Foundation.

26. On Saturday March 9, 2019, Mr. Koster and I were invited to meet with two dozen or so of Vietnamese religious, civic, and business in Houston so that we could present the proposal to produce the documentary film.

27. At this meeting, Mr. Koster repeated his often- promises that the film would be an educational documentary and will be distributed free of charge because it belongs to the Vietnamese Community through the Vietnam Foundation.

28. On March 22, 2019 the Vietnamese American Community in Houston organized a fundraising dinner at Kim-Son Restaurant at 10611 Bellaire Blvd, Houston, raising more than \$171,596 for the project. And on March 24, 2019, the Vietnamese American Community in Dallas-Fort Worth had a lunch meeting at the Vietnamese Nationalist Community Center at 10935 Estate Ln Suite 180, Dallas TX 75238 and raised \$30,830.

29. The donated amount ranges from \$5 to \$10,000 and almost one thousand people have donated to the making of the film.

1           30. Among them, there was a \$1,200 from the widow of the late Captain  
2 Ngo Chuoc. He had just died and willed his total death benefit to the Project. Because  
3 of his and our community's trust we always feel that the donated fund for the project  
4 must be accounted for every penny, so we have asked Mr. Koster for the accounting  
5 of how he has spent our money. But Mr. Koster refused to provide any accounting  
6 for any expense or related fees.  
7

9           31. In total, we fundraised approximately \$95,000 through GoFundMe from  
10 SBTN media appearances in Garden Grove, California from March 2018 to  
11 November 2020, \$150,000 in Houston, Texas on March 22, 2019 at Kim Son  
12 Restaurant, \$33,210 in Dallas, Texas on March 23, 2019 at the Vietnamese  
13 Community Center, and \$10,000 through a private family foundation. The total  
14 amount fundraised is \$292,213. To date, the only individual paid out of the funds  
15 raised is Mr. Koster.  
16  
17

18           32. Ms. Diep Phan, Mr. Tanh Nguyen, Ms. Thanh-Mai Nguyen, and Ms.  
19 Minh Nguyen (Ms. M. Nguyen) agreed to be a part of the Film under the condition  
20 that any use of their appearances would be approved prior to any release of the Film  
21 and that the Film project was for exclusive educational use, with all copyright  
22 ownership of the Film to be owned by the non-profit, the Vietnam Foundation.  
23  
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25           33. During the summer of 2019 I continued to convince my friends and  
26 relatives to be filmed by Mr. Koster in subsequent interviews I had coordinated in  
27  
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1 Houston, Dallas, Washington DC, and in Paris, France. I did more research on  
2 Vietnam War and its aftermath for Mr. Koster and provided ideas and wrote content  
3 for all the interviews.  
4

5 34. From March 2018 to July 2019, Mr. Koster filmed interviews of 93 or  
6 so Vietnamese and Vietnam veteran. I personally connected Mr. Koster to about 70  
7 of these individuals, who I have developed relationships with during the previous  
8 decades.  
9

10 35. I travelled on my own time to California, Georgia, Texas, and  
11 Washington DC in the US, and France to make arrangements and interviewed  
12 individuals while Mr. Koster filmed using equipment provided by the various local  
13 non-profits and organizations.  
14  
15

16 36. I prepared all the questions for the interviewees and acted as a pro bono  
17 interpreter and questioner during the interview, even though Mr. Koster had budgeted  
18 this portion of the expense to himself and his company. Whenever I could not be  
19 there, I recruited my friends to be interpreters for free.  
20

21 37. Mr. Koster does not speak any Vietnamese and throughout the film  
22 production process showed that he had very little knowledge of the Vietnamese  
23 culture, history, or Vietnam War.  
24

25 38. On September 8 2019, Mr. Koster emailed me and asked for “One Page  
26 Summary of History of Vietnam” which would include “the universities that existed  
27  
28



1 a thousand years ago. Architecture. Religion. When the written language was first  
2 used. The low crime rate. Family oriented. How Vietnam was constantly invaded  
3 throughout the years. Especially from China. Products manufactured like rubber,  
4 etc.”

5  
6 39. I travelled to California on or about March 16, 2018 to have Mr. Koster  
7 and I be interviewed by SBTN to promote “Through Our Eyes” Project.

8  
9 40. On March 17 and 18, 2018, I prepared the questions and acted as the  
10 questioner of six participants, all in Vietnamese. Mr. Koster also worked with Mr.  
11 Brian Tooker, who filmed the interviewees.

12  
13 41. I travelled to California two more times to help Mr. Koster with another  
14 dozen interviews in September 2018 and May 2019.

15  
16 42. Mr. Koster never produced nor provided me a movie script contrary to  
17 his often-promises. For example, on April 15, 2019, more than a year after we started  
18 the project, he wrote in an email to me that “I am still working on the script and will  
19 send it soon.”

20  
21 43. On August 29, 2019 I asked Mr. Koster again for the script because he  
22 has asked me to travel to Phoenix Arizona, for his convenience, to play a role in the  
23 Film. I only received a partial incomplete script for my role. I had to completely  
24 rewrite my script for filming.

1           44. I also asked Mr. Koster to provide to the Producers a copy of all the 93  
2 interviews. He promised he would ask the video photographer, Brian Tooker, to do  
3 that as soon as he can. During the following months, this request was made again  
4 and again, and he would say yes again but still never delivered any footage or copy  
5 of the 93 interviews conducted.  
6

7  
8           45. By August 2019, we had directly wired and paid Mr. Koster about  
9 \$220,000 and incurred other \$20,000 additional costs incurred by Mr. Koster. Even  
10 though we have repeatedly asked Mr. Koster to provide an actual expense report, he  
11 has refused to provide any details.  
12

13           46. In early November 2019, Mr. Koster contacted a couple of key  
14 Vietnamese leaders and contributors in Houston, whom I had connected him to and  
15 later threatened to stop working on the film unless he received another \$30,000. Mr.  
16 Koster stated that if the Vietnamese community acquiesced to his demand for  
17 additional funds, he vowed to complete the movie “before the Holidays” of 2019. In  
18 late November 2019, Mr. Koster once again changed his deadline and stated that the  
19 film would be completed in January 2020.  
20  
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22  
23           47. Around late 2019 to early 2020, I had a number of conference calls with  
24 donors (eight of them) regarding the fact that Mr. Koster had yet to finish the film.  
25

26           48. The most vocal member, Ms. Jane Nga Dung Nguyen, stated she  
27 believed the main reason that Mr. Foster’s had not completed the film was his “being  
28

1 an artist, who is disorganized” and she volunteered to “sweet talk” to him so he could  
2 finish the film in a couple of months.  
3

4 49. During Ms. Jane Nga Dung Nguyen’s discussion with Mr. Koster, he  
5 demanded an additional \$49,000, not \$30,000, to be wired to him directly for  
6 payments as the hired director for the film. We reluctantly paid him that additional  
7 \$49,000. To date Mr. Koster has been paid \$268,515 and we have had to pay other  
8 direct related costs of \$30,000 that he incurred for a total of almost \$300,000 or 20%  
9 over his own proposed and approved budget. Attached hereto as Exhibit 5 is a true  
10 and correct copy of my November 8, 2019 Email to Mr. Koster and members of the  
11 Vietnam Foundation.  
12

13 50. Attached hereto as Exhibit 9 is a true and correct copy of Mr. Koster’s  
14 budget proposal submitted to Vietnam Foundation. Mr. Koster allocated almost the  
15 entirety of budget fundraised for the film to himself.  
16

17 51. On November 17, 2019, I formally responded to Mr. Koster’s demand  
18 for all of the remaining funds raised. In the email addressed to Mr. Koster, I stated  
19 that “[i]f you agree to this below, please acknowledge by reply to this email with  
20 your affirmation.” The statement, is as follows: “I, Fred Koster and Koster Films,  
21 LLC, have received a total of \$250,000 from the Vietnamese community through Mr.  
22 Nam Pham, who is the community representative, to produce a theatrical  
23 documentary film, which has been tentatively called ‘Through Our Eyes: The  
24  
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1 Vietnam War.’ I hereby affirm and certify that Koster Films will deliver a completed  
2 movie by December 15, 2019. Further I will produce to the Vietnamese community  
3 an original digital copy of all interviews which were conducted from April 1, 2019  
4 to October 31, 2019 and any other related materials.” Attached hereto as Exhibit 6  
5 is a true and correct copy of my email November 17, 2019 email to Mr. Koster.  
6

7  
8 52. On November 21, 2019, Mr. Koster responded and affirmed that “I have  
9 only received \$215,601.20. It was only about week ago when the issue was forced  
10 that I finally even knew how much money was raised, which was reported at  
11 \$286,210.” “And I am trying to do this on hardly any money but even this small  
12 amount of money I can’t get.” “[A]t this time I am only requesting the amount of  
13 \$49,398.80 [the entire remaining funds raised] to be wired to me to finish the film.”  
14 Attached hereto as Exhibit 7 is a true and correct copy of Mr. Koster’s November 21,  
15 2019 Email.  
16

17  
18 53. On November 26, 2019, in response to my email requesting Mr.  
19 Koster’s affirmation of his obligations, Mr. Koster acknowledged that he had  
20 received the additional \$49,000 and would resume work on the film. Attached hereto  
21 as Exhibit 8 is a true and correct copy of Mr. Koster’s November 26, 2019 Email.  
22

23  
24 54. During the last three years, Mr. Koster has missed all his own deadlines  
25 of production and post-production schedules. We have also spent months to review  
26 and revise his work with much frustration.  
27

1           55. Even though in his budget, there would be money reserved and budgeted  
2  
3 to pay for translation from Vietnamese to English for all interview, he refused to  
4 spend money to hire any translator. To keep the project moving forward, many  
5 Vietnam Foundation Board members, such as Dr. Trong Phan and I, had to volunteer  
6  
7 ourselves to do the translation by watching the video tapes of the interviews, minutes  
8 by minutes.

9           56. In April 2020, Mr. Koster sent me and other key members of th  
10  
11 Vietnamese refugee community the first screener of the film. We were shocked and  
12 disappointed because the movie had no story line and was just a compilation of  
13  
14 random interviews. Not only did the film have very little historical footage of what  
15 happened during a time span of 40 years of the Vietnam War and its aftermath, but  
16 certain footage from the World War II Holocaust concentration camps were also  
17 presented as footage from the Vietnam war. The film had no music as promised. It  
18  
19 was a complete and utter disappointment and failure.

20           57. In May 2020 we had a board meeting to discuss Mr. Koster's screener  
21  
22 of the film. We wrote a detailed letter to him, outlining what was missing and what  
23 would be needed to improve the film. The members who devoted many efforts to  
24 the content of the Film were Ms. Thanh-Thuy Vu, Dr. Trong Phan, Ms. Jane Nga  
25  
26 Dung Nguyen, and me.

1           58. The Board and I had at least three video meetings with Mr. Koster in the  
2 second half of 2020. At all meetings, we gave Mr. Koster very specific  
3 recommendations and changes. We had to rework the whole story of the Film.  
4

5           59. By November 29, 2020, Mr. Koster still has not provided a completed  
6 film.  
7

8           60. At our meeting on March 20, 2021, Ms. Jane Nga-Dung Nguyen  
9 revealed that she had requested Mr. Koster “three or four times” to send her a copy  
10 of her Mother’s interview so she could show it to her family members at Mother’s  
11 memorial service. She had passed in early 2021.  
12

13           61. She said Mr. Koster refused to send the interview of her Mother for her  
14 Mother’s memorial service.  
15

16           62. Throughout January of 2020 and afterward, I personally reviewed the  
17 video interviews again to pick which interviews would be in the film, which part or  
18 parts of the interviews should be in the film, and how they should be weaved together  
19 into a story.  
20

21           63. The Vietnam Foundation and its partners such as My-Van Film and  
22 SBTN provided more history footage, personal pictures, list of Vietnamese songs and  
23 recorded music for the film as well as contact information of popular and famous  
24 Vietnamese composers such as Messrs. Truc Ho and Le Xuan Khoa. All partners  
25 who provided the historical footage, personal pictures, and music for the film did so  
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1 under the condition that it would be used for the documentary film for educational  
2 use only, and the understanding that Mr. Koster was a hired director, without any  
3 copyright ownership of the film.  
4

5 64. We have done this on our own time and money because we all believed  
6 in Mr. Koster's promise that the film would belong to the Vietnamese community  
7 and further its educational goals.  
8

9 65. Despite our many meetings, relentless emails and discussions, Mr.  
10 Koster still included historical inaccuracies and misrepresentations, very little  
11 footages, and little music in the Film. We requested a meeting with Mr. Koster, but  
12 he cut off all communication.  
13

14 66. In late April 2021, without any notice to any of us, Mr. Koster publicly  
15 started to sell the movie "Through Our Eyes" on various on-line venues such as eBay,  
16 IMDb, and Vimeo with prices ranging from \$9.99 to \$19.99. He has wrongly claimed  
17 all copyrights of the Project. He has failed to provide any of the interviews to be  
18 uploaded to the website. He also took down the original website, which contained all  
19 his false pledges.  
20

21 67. Mr. Koster has in person and more than once promised me, and all the  
22 people who supported or were interviewed that he would get our approval before any  
23 public release.  
24  
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1           68. On April 22, 2021, on behalf of the Vietnam Foundation and donors, I  
2 asked Ms. M. Nguyen to email a cease and desist letter to Mr. Koster and Mr. Tooker,  
3 in anticipation of litigation, and requesting that he remove the unauthorized sales and  
4 marketing of the Film and to return the 93 interview footages to the Vietnam  
5 Foundation. All copied individuals on the email agreed with the cease and desist  
6 letter sent to Mr. Koster and Mr. Tooker.  
7

9           69. On April 23, 2021, Koster responded and agreed to “shut[] down the  
10 film website and marketing” and at that time, I had followed-up with Koster in a  
11 separate email requesting that he send us a copy of the 93 interviews and any related  
12 materials of the documentary film.  
13

14           70. On April 26, 2021, on behalf of the Vietnam Foundation and donors, I  
15 requested that Ms. M. Nguyen email a cease and desist letter to Mr. Tooker, affirming  
16 the Vietnam Foundation’s copyright ownership of the film and requesting that he  
17 immediately return all 93 interviews and any related footage of the Film. To date,  
18 we have not received any communication or materials from Mr. Tooker.  
19

20           71. On behalf of the Vietnam Foundation, I requested Ms. M. Nguyen to  
21 send a notice-and-takedown requests to IMDb, eBay and Vimeo.  
22

23           72. On May 7, 2021, on behalf of Vietnam Foundation and donors, I  
24 requested Ms. M. Nguyen send a second cease and desist letter to Mr. Koster,  
25 requesting the same. All copied individuals on the email agreed with the cease and  
26  
27



1 desist letter, and in fact had requested that Ms. M. Nguyen send such a letter to Mr.  
2 Koster.  
3

4 73. To date, the Vietnam Foundation, donors, and I have not received the  
5 return of any footage of the 93 interviews or any materials related to the Film. We  
6 then learned that Mr. Koster still has not returned to Mr. Botkin the original copy of  
7 the movie “Ride the Thunder”.  
8

9 74. Mr. Botkin sent an email to Mr. Koster on May 19, 2021 asking him to  
10 collaborate with us and return the 93 interview footages and any related materials of  
11 the documentary film.  
12


13 75. Mr. Koster has threatened to destroy the Film and related materials if  
14 the Vietnam Foundation pursues legal action against him and his affiliates.  
15

16 76. On about March 2, 2022, I received an email from the Vietnamese of  
17 Communism (“VOC”), a nonprofit with a principle place of business in Washington,  
18 D.C. The email discussed Mr. Koster’s attempts to contact the VOC and inquire about  
19 “donating large film archive [which] ... contains hundreds of hours of raw witness  
20 interviews pertaining to the Vietnam war and communism, from the South  
21 Vietnamese, North Vietnamese, and American perspectives.” Mr. Koster also  
22 attempted to “donate his library of archival and b-roll footage that is focused on  
23 Vietnam” that he was “interested in working with VOC in the future” and that he was  
24 discussing several projects with VOC.  
25  
26  
27  
28

1 77. To date, the Vietnam Foundation has not received any footage of the  
2 ninety-three interviews or any materials related to the Film.  
3

4  
5 I, NAM PHAM, do hereby declare under penalty of perjury under the laws of  
6 California and the United States that I know the contents thereof, and the contents  
7 are true and accurate.  
8

9 Executed this 21<sup>st</sup> day of November 2022 in Quincy Massachusetts.  
10

11   
12  
13 NAM PHAM  
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# EXHIBIT 1

----- Forwarded message -----

From: fred [kosterfilms.com](mailto:kosterfilms.com) [redacted]

Date: Mon, Jan 15, 2018 at 12:00 PM

Subject: Re: Thoughts

To: TNguyen [redacted], [redacted], Pham Nam [redacted]

Nam, excellent points!!! Thank you sending that! Yes, we are all Comrade in Arms. I am excited to be part of this project!

Fred Koster <http://www.imdb.com/name/nm6514465/>  
Ride the Thunder Productions, LLC  
KosterFilms, LLC  
602-451-0999 direct  
800-503-8090 x121  
[fred@kosterfilms.com](mailto:fred@kosterfilms.com)

On January 13, 2018 at 6:05 PM Pham Nam [redacted] wrote:

Hello Comrade-in-arms, if I may.

Please find the attached my revised thoughts on the "Vietnam War." I've tried not to repeat its common criticism because I'm sure you have seen them.

Fred & Jim,

From the bottom of the heart of a Vietnamese American, thank you for what you did for Vietnam and America during the War, and for what you have continued to do for us.

Best regards,  
Nam

Phone [redacted]

# EXHIBIT 2

INTERNAL REVENUE SERVICE  
P. O. BOX 2508  
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date:

**JAN 13 2020**

THE NEXT VIETNAM PROJECTS  
FOUNDATION INC  
C/O NAM PHAM  
5 BAYSIDE ROAD  
QUINCY, MA 02171-0000

Employer Identification Number:

84-3744722

DLN:

26053750005089

Contact Person:

CUSTOMER SERVICE

ID# 31954

Contact Telephone Number:

(877) 829-5500

Accounting Period Ending:

December 31

Public Charity Status:

509(a)(2)

Form 990/990-EZ/990-N Required:

Yes

Effective Date of Exemption:

December 8, 2019

Contribution Deductibility:

Yes

Addendum Applies:

No

Dear Applicant:

We're pleased to tell you we determined you're exempt from federal income tax under Internal Revenue Code (IRC) Section 501(c)(3). Donors can deduct contributions they make to you under IRC Section 170. You're also qualified to receive tax deductible bequests, devises, transfers or gifts under Section 2055, 2106, or 2522. This letter could help resolve questions on your exempt status. Please keep it for your records.

Organizations exempt under IRC Section 501(c)(3) are further classified as either public charities or private foundations. We determined you're a public charity under the IRC Section listed at the top of this letter.

If we indicated at the top of this letter that you're required to file Form 990/990-EZ/990-N, our records show you're required to file an annual information return (Form 990 or Form 990-EZ) or electronic notice (Form 990-N, the e-Postcard). If you don't file a required return or notice for three consecutive years, your exempt status will be automatically revoked.

If we indicated at the top of this letter that an addendum applies, the enclosed addendum is an integral part of this letter.

For important information about your responsibilities as a tax-exempt organization, go to [www.irs.gov/charities](http://www.irs.gov/charities). Enter "4221-PC" in the search bar to view Publication 4221-PC, Compliance Guide for 501(c)(3) Public Charities, which describes your recordkeeping, reporting, and disclosure requirements.

# EXHIBIT 3

10/7/21, 10:48 PM

Through Our Eyes

The Wayback Machine - <https://web.archive.org/web/20200201232435/http://usavn.org:80/donate.html>[HOME](#)[ABOUT](#)[NEWS](#)[LESSON PLANS](#)[VIDEOS](#)[DONATE](#)[VIETNAM WA  
MEMORIAL](#)

## DONATE

The **"Through My Eyes – The Vietnam War"** project provides all produced videos, products and materials FREE of charge to academic institutes and also to the public.

If you would like to donate to our educational programs, there are two methods to do this. Both methods are eligible to be tax deductible. Please advise with your tax accountant.

**By check, make payable to Through Our Eyes / TOE**

Please include all pertinent tax information for the donor. Complete information is needed. We will not be able to process partial information. Talk with your tax accountant for what information is needed.

**Mailing address for checks is:**

TOE / Through Our Eyes  
c/o Saigon Broadcasting Television Network  
P. O. Box 127, Garden Grove, California 92843

Note: If you mail by first class at a USPS Post Office, they will give you a tracking number for confirmation of delivery. If you use a private carrier like FEDEX or UPS, they also will provide a tracking number.

**Donate By PayPal**





10/7/21, 10:48 PM

Through Our Eyes

**Donate By Venmo**<https://venmo.com/TDE-ThroughOurEyes>

If you want your donation to be tax deductible, during the process of donating, there will be a comment box, please fill in all of the pertinent tax information for the donor. Complete information is needed. We will not be able to process partial information. Talk with your tax accountant for what information is needed.

**About Us**

Our project team is a diversified group of people from different races, genders, ages, religions and political beliefs with a passion to tell the true history of the war.

**Donate**

All videos and teaching aids are FREE of charge to academic institutes and the public. Your donation is eligible for a tax deduction.

**Voice of South Vietnam**

For the first time ever in a national release, the South Vietnamese people tell their true history.

**History or Propaganda**

American Vietnam Veterans factually refute the media's wrong perception of them and the US war effort.

**Lesson Plans**

Powerful multimedia academic lessons unlike any other will be provided FREE to the American school system and the general public.

**Fact Check on the War**

Think you know the Vietnam War? Take this quick quiz to find out!

**Vietnamese Refugees**

Does the number 250,000 mean anything to you? Discover the tragic and inspiring story the world does not know.

**Re-education Prisons**

The hidden story of the one million Vietnamese people imprisoned after the war?

**ARVN**

Discover the true story of the South Vietnamese Military.

# EXHIBIT 4

From: fred [kosterfilms.com](mailto:kosterfilms.com) [REDACTED]

Date: Tue, Mar 20, 2018 at 6:09 PM

Subject: Notes on March 20 meeting

To: Pham Nam [REDACTED], Thuc-Nhi Nguyen [REDACTED], Jim McLeroy [REDACTED]  
[REDACTED]

Another great meeting! Here are some notes.

Wordage will be included in the Go fund Me page about the Virtual Wall. ( I think it would be great to have this wordage on top because it is a great incentive to donate) The wall will include both Vietnamese and American Veterans names. ThucNhi will create new emails for people to submit the names and a short message about that person to be put on the wall. ( max. 50 characters ) Also, ThucNhi please take another look at the donation page, there is a section for comments. Maybe the people can put in the person's name and message there. This might be easiest for us because if we have a separate email for this then we will then have to cross reference these emails with those people who donated. It might be difficult when we have thousands of names. If we can do it right on the Go fund Me site then it is all together. Also, on the donation page, it appears the people can also submit a photo. I say lets go for it! Give the people an option to submit a photo. Lets make this virtual wall great!!!

ThucNhi will contact SBTN and ask them to make a copy of our interview show and at the front of this copy put in a static image of the 3 logos that are currently on the Go Fund me site. This way when people visit the Go Fund Me site they will see the logos and then have the option to click on the screen to watch the interview.

The script for the South Vietnamese video will first be written by SBTN "based" on our approved outline that we currently have which ThucNgi will provide to SBTN. This script by SBTN will then be sent to IRCC for their input and then sent to Jim and I. One thing we need to be careful of is, that everyone needs to know that this script is a collaborative effort. Sometimes when it comes to creative writing, people may be sensitive to changes in the final version of the script.

Thanks!

Fred Koster <http://www.imdb.com/name/nm6514465/>

Ride the Thunder Productions, LLC

KosterFilms, LLC

602-451-0999 direct

800-503-8090 x121

[fred@kosterfilms.com](mailto:fred@kosterfilms.com)

----- Original Message -----

From: "fred [REDACTED]" [REDACTED]

To: Thuc-Nhi Nguyen [REDACTED], Pham Nam [REDACTED]

Cc: "Jim McLeroy [REDACTED]" [REDACTED]

Date: March 19, 2018 at 11:59 AM

10/7/21, 11:57 PM

Gmail - Fwd: Notes on March 20 meeting

Subject: Re: Notes on our Friday media events

Either Tuesday or Wednesday works for me. I talked with Jim and he is not available until Friday. He said that I can just email him new updates from the phone conference.

If it is easier for everyone, we can do this by email instead of a telephone conference. I feel like we have some good momentum going and don't want to lose it.

Some topics to discuss:

Put text into the Go Fund Me website about the Virtual Wall and for those who donate any amount, they can put a name on it with a statement ( 40 characters )

Should we put in the SBTN interview footage onto the Go Fund Me Page?

Should we put in the link for Cronkite broadcast onto the Go Fund Me Page?

I will start writing the "actual" script based on the materials and approval that have been provided to me by all of you. Please send me any new updates or thoughts.

For contact or suggestions for content on the video and teaching aid, I got this email address for the public to use ( what do you think? we can get another ): [vvfhusa@gmail.com](mailto:vvfhusa@gmail.com)

I am still waiting to hear back from corporate sponsors and other organizations.

Thanks!!!

Fred Koster <http://www.imdb.com/name/nm6514465/>

Ride the Thunder Productions, LLC

KosterFilms, LLC

602-451-0999 direct

800-503-8090 x121

[fred@kosterfilms.com](mailto:fred@kosterfilms.com)

On March 19, 2018 at 10:56 AM Thuc-Nhi Nguyen [REDACTED] wrote:

Tuesday at 2pm PST?

On Mon, Mar 19, 2018 at 10:38 AM, Pham Nam [REDACTED] wrote:

I meant Tues & Wed. Sorry

Best regards,  
Nam

Phone 617 992 4283

On Mon, Mar 19, 2018 at 1:37 PM, Pham Nam <  
[REDACTED]> wrote:

Tuesday 7 Wed are good for me. The rest of  
this week is not. Thnaks

Best regards,  
Nam

Phone 617 992 4283

On Sun, Mar 18, 2018 at 10:15 PM, fred [REDACTED]  
[REDACTED] wrote:

Friday was a wonderful day! It was great seeing  
everyone and I feel so good about our group! What



10/7/21, 11:57 PM

Gmail - Fwd: Notes on March 20 meeting

we are doing is historic and will be an incredible journey for all of us!

Can we schedule a telephone conference early in the week? Like maybe Tuesday?

ThucNhi, can we talk as soon as possible about getting a statement on the go fund me site about the virtual wall. It needs to say that contributors will have the opportunity to honor a love one and make a statement about that person on the virtual wall. (limit 40 characters)

Also, Nam great job on the talk shows!!

Thanks!!

Fred Koster <http://www.imdb.com/name/nm6514465/>  
Ride the Thunder Productions, LLC  
KosterFilms, LLC  
602-451-0999 direct  
800-503-8090 x121  
[fred@kosterfilms.com](mailto:fred@kosterfilms.com)

# EXHIBIT 5

From: **Pham Nam** [REDACTED]  
Date: Fri, Nov 8, 2019 at 5:04 PM  
Subject: TOE UPDATE 11  
To: NAM PHAM [REDACTED]

Dear All,

Again thank you for all of your kind messages during the past few days. I'm back, so I'd like to update you all where our film is, including our financials. These were part of our postponed call 10 days ago. I will reschedule the call.

**Financials:**

**TOE Fundraisers**

Houston	140,000
Dallas	33,210
Gofundme	95,000
Viet Hung Foundation	10,000
Miscellaneous Donations	4,000

SUBTOTAL	<b>\$286,210.00</b>
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**DISBURSEMENTS:**

Fred Koster	215,000
Nam Pham	4117.13

SUBTOTAL	<b>219,117</b>
----------	----------------

10/7/21, 8:15 PM

Gmail - Fwd: TOE UPDATE 11

**BALANCES**

**63,093**

As the table above shows, we raised almost \$290,000 and have spent around \$220,000. The Viet Hung donation of \$10,000 is designated for marketing the film as we have promised the donor. There will be some minor adjustments because we have some bounced checks. The attached Bank statements of our two accounts have a combined balance of \$67,117 because I have not taken the reimbursement for my expenses of \$4,117.13.

Fred has provided a written budget of \$245,987; in this, \$223,625 is the cost of making the movie plus a 10% contingency of \$22,362. He also told all of us that he could do the film for \$250,000. Minimum budget or not because it is FRED's budget based on his experience of making Ride the Thunder as he has shared with me.

I have asked Fred for an updated expense report; I believed when Fred was in Houston last weekend, he also told some of us that he would do so. Without this, we cannot make any intelligent conclusion that we have enough or do not enough fund to complete the film.

The most important thing is we have enough money in the banks to complete the film as budgeted. Any extra fund we have raised will be used to market it, to produce the teaching aide, and the virtual memorials wall. From day one of Through Our Eyes Project, we publicly stated these goals.

**PENDING NON-PROFITS**

In July of this year, I started the process of setting up a new 501-c3 non-profit organization for our current film project and for future projects. I thank all of you for having agreed to serve on the Board. It will be called, very general and lame, The Next Vietnam Projects Foundation so we can do any educational projects, including more films or build Boat People memorials as we see fit. We will need to elect officers to manage it, especially the Treasurer so we can have a real "check and balance."

I do not expect to hear from the IRS for the official non-profit status until some times next year at the earliest.

During the waiting period and most importantly since April 2019 when Steve Sherman said that he could no longer help us process donation checks, I have asked You Help Foundation, a non-profit of which I am an officer, to help us as a fiscal agent. What it meant is it has replaced VVFH so we could open out own checking accounts, accept donations and provide tax deduction receipts to our donors. You Help Foundation will continue to be our fiscal agent until such time when we have our own 501-c3 status. I recalled that I have shared this process with all of you, including with Fred, a few months ago.

I have opened two checking accounts with Santander Bank, one is called "Through Our Eyes" or TOE and on is named "VVFH" so we can accept all past and future donation. I plan to consolidate these two accounts into one when we are totally confident that there is not any more donation payable to "VVFH".

**THE FILM PRODUCTION PROGRESS:**

We all were hoping that the film would be completed by now based on Fred's schedule. Unfortunately, we have been a few months behind. Fred is still committed to have it done by the end of this month of November 2019. He has been working hard on the production which is finished. The current phase for the last couple of months is post-production.



10/7/21, 8:15 PM

Gmail - Fwd: TOE UPDATE 11

I will send out an invitation for a conference call next week so we all can be on the same page and plan for the marketing and showing of our film. Should you have any question about our financials, please feel free to contact me. Again, thank you for your un-waiver faith in us and your continuous support.

Best regards,  
Nam

[REDACTED]

---

**2 attachments**



**TOE-UPDATE 11.docx**  
18K



**TOE Expenses--Nam.xlsx**  
12K

# EXHIBIT 6

----- Forwarded message -----

From: Pham Nam [REDACTED]

Date: Sun, Nov 17, 2019 at 10:02 PM

Subject: Agreement

To: fred [REDACTED]

Cc: Theresa Ngoan Tran <[REDACTED]>, Jane Nga-Dung Nguyen [REDACTED], anthony pham [REDACTED], Phuc Duong [REDACTED], Nhan Truong [REDACTED]

[REDACTED] Trong Q. Phan <[REDACTED]>, Thanh Thuy Vu [REDACTED]

[REDACTED], Chi Thu Nga [REDACTED] Tom Hoang [REDACTED]

viet huyen [REDACTED]

Dear Fred,

If you agree to this below, please acknowledge by reply to this email with you affirmation. Afterward, I will wire another \$30,000 to you, which will add up to the \$250,000 budget, including the expenses I have incurred for the Through Our Eyes Project. We would also feel much better if you could also provide a scrip of the film at your earliest convenience.

"I, Fred Koster and Koster Films LLC, have received a total of \$250,000 from the Vietnamese community through Mr. Nam Pham, who is the community representative, to produce a theatrical documentary film, which has been tentatively called "Through Our Eyes: The Vietnam War". I hereby affirm and certify that Koster Films will deliver a completed movie by December 15, 2019. Further, I will provide to the Vietnamese community an original digital copy of all interviews which were conducted from April 1 2019 to October 31, 2019 and any other related materials."

I am available to answer any question you may have. We look forward to hearing from you.

Best regards,  
Nam

[REDACTED]

# EXHIBIT 7

On Thu, Nov 21, 2019 at 11:23 PM fred [REDACTED] wrote:

Hello Everyone. We are at are at a critical point in the film production. I have thought carefully and extensively about the current situation and want to share my thoughts. I encourage everyone to please read this full email.

I believe we currently have the makings of a wonderful and effective film that will deliver a powerful message that America has never heard before.

When I took on the responsibility of making this film on such a small amount of money, I knew it was going to be great challenge because we would be up against films in the theaters that costs tens of millions of dollars to make. In addition, many people are looking at our film as a rebuttal against Ken Burns who had 30 million dollars to make his.

Also, to put things in perspective about about funding in the film industry, for example, I had a friend who recently worked on a project that was for a 20 minute video and consisted of 4 shooting days. His budget was \$250,000. Another person received \$150,000 from Sundance to make a short video. Both of these films were fictional and did not have anywhere near the complexities of making the feature film I am. There are many reasons why feature films cost millions of dollars to produce. To make a high production quality film that the theater chains will allow to be shown in their theaters and a film that will be taken seriously by main stream America, it takes a lot of money to produce. I want everyone to understand that only a very small amount of money has been raised to accomplish our film goals and "I will do it" but I need the money to do it.

In addition to the making of the film, I have also created a library of over 90 interviews that have been professionally shot in 4K theatrical quality. In my opinion this is a "one of kind" and a magnificent library of the history of the South Vietnamese people.

These interviews have been conducted all around the United States and France. I produced the interviews with varied subject matters so they can be used for future films, shows and teaching aids. I want everyone to know that I created this library for the Vietnamese people. My intentions were for a Vietnamese owned and managed non-profit to use these interviews in creating future projects to educate America of their true story.

Also, I want to note, in making the film we have gone on 23 different filming trips, conducted over 90 interviews, developed a website, produced two promo videos, made numerous advertisements and much more. We have had film sets where between cast and crew we had 80 people. This doesn't even count all of my trips I have taken in promoting and raising funds for the film.

Unfortunately, we are now at a critical moment on whether this film will be completed. As the Director and Producer of the film it is my responsibility to make the best film as possible. As I look back on this year and the funding disbursement



situation, I have not been satisfied. I have spoke at many functions, been on numerous talk shows and my name has been used in raising funds for the making of the movie. I have stated many times during this period that " I need a minimum of \$250,000 to make a film, if we raise more money than that we will have a better film."

The people who donated money believed that their money was going towards the making of the film, not for other purposes. I was also under this same belief. I would not have participated in the fund raising if I knew that funds were going for unspecified purposes, or as stated in writing, "for future projects". Even though the film has been fully funded since March, I have only received \$215,601.20. It was only about week ago when the issue was forced that I finally even knew how money was raised, which was reported at \$286,210.

I also want to note that I have seen in our group emails, correspondence stating inaccurate and misleading information about the film project. I have heard other negative things and I have also been "threaten" in writing that I am not getting any more money and if I do not do what I am told, my life, reputation and livelihood will be destroyed and in addition, the money that was donated for the film will now be used to sue me.

This situation has gotten past the point of absurdity. I am not just trying to make a film, I am trying to make a historic film that will change America's perception of the South Vietnamese people and the war. And I am trying to do this on hardly any money but even this small amount of money I can't get.

I now realize that during this past year I have been too nice and accommodating when dealing with certain people and they have taken advantage of it. I want everyone to realize that even though I have no legal obligation for performance or delivery date of the film, I have a strong devotion to those who suffered, died and survived the Vietnam War, in telling their true story.

To withhold funding from me that was specifically donated to making of the film is at the very least unreasonable and also counterproductive to the goals we want to achieve. To threaten me and try to discredit me for simply asking for the rest of the funding for the film is way over the line.

In my opinion, this film must be finished immediately and be released in January. I have already stopped production on the movie two times for lack of funding. If I am to finish the film in time for a January release, I am now forced to work through all the holidays and ask my people to do the same. We are also now forced to film our New York scene in December when filming conditions are much more difficult and expensive. I also still need to go Philadelphia and Washington DC. There is an immense amount of work to be done in a short amount of time.

As Director and Producer, I will ensure to everyone that this film will be ready for release in January but only if I am wired funding (as described below) by end of the

business day on Friday November 22. Also, at this point, it is evident that there is an intention not to send me the funding I need, so I will not accept any excuses or barriers in receiving it.

Even though all of the money donated is suppose to go directly to the making of the film and not for other purposes, at this time I am only requesting the amount of \$49,398.80 to be wired to me to finish the film. The rest of the donation funding which totals \$ 21,210.00 can be held for distributing related costs and other film related expenses.

Thank you.

Fred Koster IMDB  
KosterFilms, LLC  
Ride the Thunder Productions, LLC  
310-424-0225 direct  
800-503-8090 x121  
fred@kosterfilms.com

# EXHIBIT 8



----- Forwarded message -----

From: fred [REDACTED] [REDACTED]

Date: Tue, Nov 26, 2019 at 5:16 PM

Subject: Re: Agreement - IMPORTANT REPLY

To: Pham Nam [REDACTED]

[REDACTED], anthony pham [REDACTED]

[REDACTED], Phuc Duong

[REDACTED], Nhan Truong

[REDACTED], Trong Q. Phan

[REDACTED], Thanh Thuy Vu

[REDACTED], Tom Hoang

[REDACTED], viet huyen

[REDACTED], Chi Thu Nga

I just want to notify everyone that we have received the funding and are back to production and we will have a great film.

Thank you!!

Fred Koster [IMDB](#)

KosterFilms, LLC

Ride the Thunder Productions, LLC

310-424-0225 direct

800-503-8090 x121

[fred@kosterfilms.com](mailto:fred@kosterfilms.com)

On November 23, 2019 at 5:08 AM Pham Nam [REDACTED] wrote:

Dear Fred,

Ms. Nga Dung and Theresa have told us that they like you, trust you and believe that you will complete the film for release in January as you have promised. Therefore, at their instruction, I have wired the money to you as you have requested.

We look forward to see the completion of the movie soon. Thank you.

On Fri, Nov 22, 2019, 18:39 [REDACTED] wrote:

I prefer option 2 and hope for the best! Happy Thanksgiving everyone!  
Tina Do

10/7/21, 9:03 PM

Gmail - Fwd: Agreement - IMPORTANT REPLY

-----Original Message-----

From: ttaitrinh <[REDACTED]>  
To: Pham Nam [REDACTED]  
Cc: Theresa Ngoan Tran [REDACTED]; Jane Nga-Dung Nguyen <[REDACTED]>  
[REDACTED]; anthony pham [REDACTED]; Phuc Duong [REDACTED];  
[REDACTED]; Nhan Truong [REDACTED];  
Trong Q. Phan [REDACTED]; Thanh Thuy Vu [REDACTED];  
[REDACTED]; Chi Thu Nga [REDACTED]; Tom Hoang <[REDACTED]>  
[REDACTED]; viet huyen [REDACTED]

Sent: Fri, Nov 22, 2019 10:17 am

Subject: Re: Agreement - IMPORTANT REPLY

Dear All,

I prefer Option 2 ( since option 1 is so destructive that may generate a lose-lose situation!)  
May we have the day of film release guaranteed from Fred on the agreement if possible?

Regards,

AI TRINH THI THAI

English/Vietnamese Certified Court Interpreter /CCI of Judicial Council of  
California / ID# 301751

National Certified Medical Interpreter /CMI #101681

Former Interpreter at UNHCR

JENNY THAI

News anchor of Viet-My Television

Tel# 714 200 5001

Email: [REDACTED]

On Nov 22, 2019, at 7:12 AM, Pham Nam [REDACTED] wrote:

Dear all,

I won't bother you with my thoughts on Fred's email.  
Here are our choices:

1) Not sending him any money and sue him to get back not just our money but also all the materials including all the interviews which many of us personally help arrange. Then we will get some other director to make the film;

2) Give in to his demand for money and more money and hope that he would finish the film.

He knows that our community has financial resources and care deeply about making the film so he is taking advantage of this. It comes down to:

- 1) For him, he wants more money
- 2) For us, we want the film done

Please let me know. Thanks

10/7/21, 9:03 PM

Gmail - Fwd: Agreement - IMPORTANT REPLY

Best regards,  
Nam

[REDACTED]

On Thu, Nov 21, 2019 at 11:23 PM fred [REDACTED]

[REDACTED] wrote:

Hello Everyone. We are at are at a critical point in the film production. I have thought carefully and extensively about the current situation and want to share my thoughts. I encourage everyone to please read this full email.

I believe we currently have the makings of a wonderful and effective film that will deliver a powerful message that America has never heard before.

When I took on the responsibility of making this film on such a small amount of money, I knew it was going to be great challenge because we would be up against films in the theaters that costs tens of millions of dollars to make. In addition, many people are looking at our film as a rebuttal against Ken Burns who had 30 million dollars to make his.

Also, to put things in perspective about about funding in the film industry, for example, I had a friend who recently worked on a project that was for a 20 minute video and consisted of 4 shooting days. His budget was \$250,000. Another person received \$150,000 from Sundance to make a short video. Both of these films were fictional and did not have anywhere near the complexities of making the feature film I am. There are many reasons why feature films cost millions of dollars to produce. To make a high production quality film that the theater chains will allow to be shown in their theaters and a film that will be taken seriously by main stream America, it takes a lot of money to produce. I want everyone to understand that only a very small amount of money has been raised to accomplish our film goals and "I will do it" but I need the money to do it.

In addition to the making of the film, I have also created a library of over 90 interviews that have been been professionally shot in 4K theatrical quality. In my opinion this is a "one of kind" and a magnificent library of the history of the South Vietnamese people.

These interviews have been conducted all around the United States and France. I produced the interviews with varied subject matters so they can be used for future films, shows and teaching aids. I want everyone to know that I created this library for the Vietnamese people. My intentions were for a Vietnamese owned and managed non-profit to use these interviews in creating future projects to educate America of their true story.

Also, I want to note, in making the film we have gone on 23 different filming trips, conducted over 90 interviews, developed a



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website, produced two promo videos, made numerous advertisements and much more. We have had film sets where between cast and crew we had 80 people. This doesn't even count all of my trips I have taken in promoting and raising funds for the film.

Unfortunately, we are now at a critical moment on whether this film will be completed. As the Director and Producer of the film it is my responsibility to make the best film as possible. As I look back on this year and the funding disbursement situation, I have not been satisfied. I have spoke at many functions, been on numerous talk shows and my name has been used in raising funds for the making of the movie. I have stated many times during this period that "I need a minimum of \$250,000 to make a film, if we raise more money than that we will have a better film."

The people who donated money believed that their money was going towards the making of the film, not for other purposes. I was also under this same belief. I would not have participated in the fund raising if I knew that funds were going for unspecified purposes, or as stated in writing, "for future projects". Even though the film has been fully funded since March, I have only received \$215,601.20. It was only about week ago when the issue was forced that I finally even knew how money was raised, which was reported at \$286,210.

I also want to note that I have seen in our group emails, correspondence stating inaccurate and misleading information about the film project. I have heard other negative things and I have also been "threaten" in writing that I am not getting any more money and if I do not do what I am told, my life, reputation and livelihood will be destroyed and in addition, the money that was donated for the film will now be used to sue me.

This situation has gotten past the point of absurdity. I am not just trying to make a film, I am trying to make a historic film that will change America's perception of the South Vietnamese people and the war. And I am trying to do this on hardly any money but even this small amount of money I can't get.

I now realize that during this past year I have been too nice and accommodating when dealing with certain people and they have taken advantage of it. I want everyone to realize that even though I have no legal obligation for performance or delivery date of the film, I have a strong devotion to those who suffered, died and survived the Vietnam War, in telling their true story.

To withhold funding from me that was specifically donated to making of the film is at the very least unreasonable and also counterproductive to the goals we want to achieve. To threaten me and try to discredit me for simply asking for the rest of the funding for the film is way over the line.

In my opinion, this film must be finished immediately and be released in January. I have already stopped production on the movie two times for lack of funding. If I am to finish the film in time for a January release, I am now forced to work through all the holidays and ask my people to do the same. We are also now forced to film our New York scene in December when filming conditions are much more difficult and expensive. I also still need to go Philadelphia and Washington DC. There is an immense amount of work to be done in a short amount of time.

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As Director and Producer, I will ensure to everyone that this film will be ready for release in January but only if I am wired funding (as described below) by end of the business day on Friday November 22. Also, at this point, it is evident that there is an intention not to send me the funding I need, so I will not accept any excuses or barriers in receiving it.

Even though all of the money donated is suppose to go directly to the making of the film and not for other purposes, at this time I am only requesting the amount of \$49,398.80 to be wired to me to finish the film. The rest of the donation funding which totals \$ 21,210.00 can be held for distributing related costs and other film related expenses.

Thank you.  
Fred Koster IMDB  
KosterFilms, LLC  
Ride the Thunder Productions, LLC  
310-424-0225 direct  
800-503-8090 x121  
fred@kosterfilms.com

On November 17, 2019 at 8:02 PM Pham Nam <  
[REDACTED]> wrote:

Dear Fred,

If you agree to this below, please acknowledge by reply to this email with you affirmation. Afterward, I will wire another \$30,000 to you, which will add up to the \$250,000 budget, including the expenses I have incurred for the Through Our Eyes Project. We would also feel much better if you could also provide a scrip of the film at your earliest convenience.

"I, Fred Koster and Koster Films LLC, have received a total of \$250,000 from the Vietnamese community through Mr. Nam Pham, who is the community representative, to produce a theatrical documentary film, which has been tentatively called "Through Our Eyes: The Vietnam War". I hereby affirm and certify that Koster Films will deliver a completed movie by December 15, 2019. Further, I will provide to the Vietnamese community an original digital copy of all interviews which were conducted from April 1 2019 to October

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31, 2019 and any other related  
materials."

I am available to answer any question  
you may have. We look forward to  
hearing from you.

Best regards,  
Nam

[REDACTED]

# EXHIBIT 9



### Through Our Eyes - Projected Production Budget

Total Number of Work Weeks	20	
Number of Pre-Production Weeks	4	
Number of Production Weeks	8	
Number of Post-Production Weeks	8	
<b>Summary</b>	<b>Amount</b>	<b>Percentage</b>
Pre-Production	\$38,000.00	15.45%
Talent	\$7,000.00	2.85%
Production	\$100,300.00	40.77%
Post Production	\$78,325.00	31.84%
<b>Sub Total</b>	<b>\$223,625.00</b>	
Contingency (10%)	\$22,362.50	
<b>Total Budget</b>	<b>\$245,987.50</b>	

### Pre-Production (4 Weeks)

Pre-Production	Hours	Rate	Totals		
Project Planning			Notes		
Executive Producer/Producer(s)	120	\$75.00	\$9,000.00	Project conceptualizing, research and planning, meetings with advisors, the design, writing and production of Website, the conceptualizing, writing, and producing of two Promotional videos, hiring of staff, consultants, hosts and talent, budget creation, location scouting, production scheduling, assessing and researching archival footage, media appearances	
Script	N/A	\$4,000.00	\$4,000.00		
Archival Research / Assistant Editor(s)	100	\$50.00	\$5,000.00		
Total			\$18,000.00		
Fundraising & Promotional Expenses			Notes		
Travel Related Expenses		\$2,500.00	\$2,500.00		
			\$0.00		
Total			\$2,500.00		
Website Development			Notes		
Producer cost			Included	Website monthly management fee is for one year	
Website Design / Hosting	N/A	\$5,000.00	\$5,000.00		
Stock/Archival Media Licensing	N/A	\$1,000.00	\$1,000.00		
Website monthly management - 1 year	y 120 hours/year	\$50.00	\$6,000.00		
Total			\$12,000.00		
Promo Video / Trailer			Notes		
Producer(s) cost			Included	This cost includes original promo version along with updated revisions to the promo	
Editor(s)	80	\$50.00	\$4,000.00		
Stock/Archival Media	N/A	\$1,500.00	\$1,500.00		
Total			\$5,500.00		
Pre-Pro Total			\$38,000.00		

### Talent

Cast	Days	Rate	Totals	Notes
<b>Lead Cast</b>				
Show Host(s) (projected cost)	N/A	\$5,000.00	\$5,000.00	
Voice Over	N/A	\$2,000.00	\$2,000.00	
<b>Total</b>			<b>\$7,000.00</b>	

### Production (8 Weeks)

Department	Days	Rate	Totals	Notes
<b>Crew</b>				



Executive Producer/Producer(s)	35	\$750.00	\$26,250.00	Los Angeles - 8 Days
Camera Operator(s)	35	\$500.00	\$17,500.00	Houston - 4 Days
Sound Operator(s)	2	\$350.00	\$700.00	San Antonio - 2 Days
Makeup Artist	1	\$350.00	\$350.00	Dallas - 4 Days
				Washington DC - 4 Days
				Phoenix - 2 Days
				Paris - 5 Days (3 Work Days)
				San Jose - 2 Days
				College Campus - 2 Days
				Additional Interviews - 2 Days
<b>Total</b>			<b>\$44,800.00</b>	
<b>Equipment</b>				<b>Notes</b>
Camera + Audio Package	35	\$400.00	\$14,000.00	4k Sony Cinema Camera Package + Audio Package
Additional Equipment	N/A	\$1,000.00	\$1,000.00	
<b>Total</b>			<b>\$15,000.00</b>	
<b>Locations</b>				<b>Notes</b>
Locations fees and permits	5	\$1,500.00	\$7,500.00	
<b>Total</b>			<b>\$7,500.00</b>	
<b>Travel</b>				<b>Notes</b>
Per Deim (2)	37	2x \$50	\$3,700.00	\$50 per person per day (2x \$50 = \$100)
Hotels (2)	37	2x \$125	\$4,625.00	Travel expense include costs for Producer(s) & Camera Operator
Domestic Airfare			\$9,600.00	13 Trips
Car Rentals			\$2,600.00	13 Trips
Paris Trip			\$6,175.00	3 Person Team: Airfare + Hotels + Per Deim + Transportation
<b>Total</b>			<b>\$26,700.00</b>	
<b>Insurance</b>				<b>Notes</b>
Insurance	N/A	\$4,000.00	\$4,500.00	
<b>Total</b>			<b>\$4,500.00</b>	
<b>Hard Drives</b>	<b>Quantity</b>			<b>Notes</b>
6TB G-Drives	9	\$200.00	\$1,800.00	
<b>Total</b>			<b>\$1,800.00</b>	
<b>Total</b>			<b>\$100,300.00</b>	

### Post Production (8 Weeks)

Department	Hours	Rate	Totals	Notes
<b>Editorial</b>				
Executive Producer/Producer(s)	360	\$75.00	\$27,000.00	In addition to post production responsibilities, Producer(s) duties include film rights and clearances; securing theatrical release agreements with theaters; strategizing and planning for distribution and marketing of film
Lead Editor	360	\$50.00	\$18,000.00	
Assistant Editors	180	\$35.00	\$6,300.00	
Assistant Editor Logger 1	90	\$20.00	\$1,800.00	
Assistant Editor Logger 2	90	\$20.00	\$1,800.00	
<b>Sound / Music</b>				<b>Notes</b>
Sound	N/A	\$2,000.00	\$2,000.00	Music is combination of an original score and stock music
Music	N/A	\$4,000.00	\$4,000.00	
<b>Color &amp; Finishing (HD)</b>				<b>Notes</b>
Color Correction	80	\$50.00	\$4,000.00	
Finishing	80	\$50.00	\$4,000.00	
<b>Stock</b>				<b>Notes</b>
Stock Media	N/A	\$8,000.00	\$8,000.00	Includes special effects stock media
KosterFilms Stock Footage Library		\$0.00	\$0.00	
<b>Accessibility</b>				<b>Notes</b>
Closed Captions English	N/A	\$480.00	\$480.00	
Vietnamese Translation and Viet Subtitles	N/A	\$945.00	\$945.00	
<b>Total</b>			<b>\$78,325.00</b>	

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